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**CERTIFIED
TRANSCRIPT**

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1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK
3 Index No. 08-CV-5338 (LAK)

4 AYAL ROSENTHAL,

5 Plaintiff,

6 - against -

7 NEW YORK UNIVERSITY, NEW YORK UNIVERSITY
8 LEONARD N. STERN SCHOOL OF BUSINESS, and
9 THOMAS F. COOLEY, RICHARD R. WEST, Dean
10 of the LEONARD N. STERN SCHOOL OF
11 BUSINESS,

12 Defendants.

13 November 9, 2009

14 9:24 a.m.

15 DEPOSITION of GARY FRASER, taken by the Plaintiff,
16 pursuant to Notice, held at 11 Broadway, New York, New
17 York, before Kim Auslander, a Notary Public of the State
18 of New York.
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2 and looked at Tom Grace's perspective and
3 you have to remember that Tom Grace is an
4 NYU central employee, and NYU in generality,
5 particularly undergraduate, is a liberal
6 arts degree, and his experience is not with
7 professional business school.

8 So at the end of the day, the
9 committee felt that there was an impact that
10 affected the Stern School of Business and
11 you could use both, a combination of the
12 University's code of conduct, which Ayal
13 signed and agreed to, and the Stern School's
14 code of conduct which he also agreed to.

15 Q. What was the impact on the
16 Stern School?

17 A. Reputational.

18 Q. Was there any evidence of
19 reputational impact?

20 MS. KILSON: Objection, form.

21 A. There was two pieces. One,
22 there was, as I mentioned, students were
23 aware of Ayal's situation. Ayal mentioned
24 that he talked to students about his
25 situation.

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2 Separately, there was also the
3 concern that there was a future concern of
4 what anyone, not just Ayal, could do.
5 Particularly, Ayal could write a book about
6 his situation and mention the Stern School,
7 so there was a combination of existing
8 reputation as well as future reputation.

9 Q. Was there any evidence of
10 future damage to the Stern School's
11 reputation presented at the hearing?

12 MS. KILSON: Objection, form.

13 A. I think Ayal was asked about
14 that and he confirmed yeah, he could write
15 a book but he didn't feel that affected the
16 reputation.

17 So he certainly did not leave
18 that out of the question, of whether it can
19 happen, and because of that -- in fact, at
20 one point I believe he was asked whether he
21 felt that could affect the school and he
22 commented yeah, it could, but I'm not going
23 to write a book.

24 So I think from his perspective
25 he knew there was a risk in the future. He

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2 also discussed that he mentioned this to
3 some of his classmates, so we felt there was
4 a risk.

5 Q. Was there any evidence
6 presented to the committee of actual damage
7 to the school's reputation?

8 MS. KILSON: Objection, form.

9 A. I would say Ayal admitting
10 that he had discussed this with classmates,
11 that it was known that a student at Stern
12 committed securities fraud while they were
13 a student.

14 Q. The fact that a Stern School
15 student committed securities fraud, who was
16 that known to?

17 A. I can't tell you who
18 specifically, because I'm not sure of the
19 full reach of that.

20 I know that Ayal admitted
21 discussing his case with people who were
22 students at Stern that he considered peers,
23 so I know it was discussed there, and while
24 he wasn't mentioned specifically that he was
25 a Stern MBA, we also know the fact that his

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2 name was there, that research could be done
3 to identify that he was the person.

4 Q. How?

5 A. Because I think his name was
6 listed.

7 Q. How would that enable people
8 to find out that he was a Stern MBA
9 student?

10 MS. KILSON: Objection, form.

11 A. Again, I think because he
12 himself told students, I think students
13 were aware of it.

14 I mentioned earlier there was
15 discussion about him doing it. He was very
16 comfortable or very open about the fact that
17 he did do it and he was comfortable telling
18 me that he had done it.

19 Q. You said research could be
20 done based on the fact that his name was
21 disclosed as someone who pled guilty to a
22 securities violation.

23 How could research be done that
24 would identify him as a Stern School MBA?
25 What research?

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2 MS. KILSON: Objection, form.

3 A. The main thing was he told
4 students.

5 Q. How does that harm the Stern
6 School reputation, that he told students?

7 A. Students can tell other
8 students, they can tell prospective
9 students.

10 Q. Did that happen?

11 MS. KILSON: Objection, form.

12 A. I don't know.

13 Q. Did any students not come to
14 the Stern School because of Ayal's
15 situation?

16 A. I am not responsible for
17 admissions, so I couldn't tell you. I
18 don't know. I know we do exit surveys, but
19 I don't know.

20 Q. Have any recruiters looking
21 for Stern School students to come work for
22 them ever said anything about Ayal's
23 situation?

24 MS. KILSON: Objection, form.

25 A. Not that I am aware, but I

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2 don't think that a recruiter would tell us.
3 I think they would just make the decision
4 not to recruit.

5 Q. Did any recruiters decide not
6 to recruit at NYU because of Ayal's
7 securities violation?

8 MS. KILSON: Objection, form.

9 A. I know that there were
10 recruiters that stopped recruiting at NYU
11 Stern. Whether it's related Ayal or not I
12 don't know.

13 Q. Do you have any basis to think
14 there is a connection between recruiters
15 not recruiting and Ayal Rosenthal?

16 A. I think there's a risk,
17 because again, I think Ayal told people
18 that were employed. He was in the part
19 time program, which is working
20 professionals, and to his own admission he
21 told people who were his classmates, but
22 also employees, so I think there was a
23 risk.

24 Q. What I'm asking is do you know
25 of any actual connection.

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2 A. I don't.

3 Q. Do you know of any alumni who
4 stopped donating to the school because of
5 Ayal Rosenthal's guilty plea?

6 A. That's not my area to track,
7 so I can't comment. I don't involve myself
8 in alumni development.

9 Q. But do you know from your
10 personal knowledge one way or the other
11 whether any alumni stopped donating money?

12 A. I can't comment one way or the
13 other. I can tell you there is a sincere
14 risk. Many of our alumni donators are
15 people in the finance community, and I
16 think there was a risk, which is what I'm
17 not sure if the committee discussed it from
18 the alumni perspective, they could have,
19 but I think there was a risk.

20 Q. So you think there was a risk.
21 Now what I am asking is are you aware of
22 any facts that --

23 A. I'm personally not aware.

24 Q. Are you aware of any decrease
25 in the Stern School's national rankings

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2 because of Ayal's guilty plea?

3 MS. KILSON: Objection, form.

4 A. I am not aware of that.

5 Q. Are you aware of any actual
6 negative impact of any kind on the Stern
7 School because of Ayal Rosenthal's guilty
8 plea?

9 MS. KILSON: Objection, form.

10 A. I will say as long as students
11 were aware that this happened, then yes,
12 there was an impact.

13 I would say also even more
14 importantly the fact that what he did had
15 happened, the fact that he did not have any
16 remorse as you can tell from the written
17 statement he read and prepared, that there
18 was a risk of future negative implications
19 given that he agreed that he could write a
20 book and not that -- it may sound
21 farfetched, but it's certainly within the
22 realm of possibility.

23 So I think there was a look at
24 if there are students that were aware of
25 this, it negatively impacts the school. If

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2 there is a potential for students to be
3 aware of it, it can negatively impact the
4 school. If there is some more activity that
5 Ayal takes in the future, it could
6 negatively impact the school.

7 So I think the committee looked
8 at past, current and future state of his
9 actions and the impact it could have on the
10 school.

11 Q. What is the negative impact on
12 the school from students being aware of
13 Ayal's guilty plea?

14 A. The negative impact is that
15 when someone signs an honor code and code
16 of conduct and violates it in a fashion
17 that he did and still gets a degree may
18 leave a message that that's acceptable to
19 be done.

20 It could open the door to other
21 activities like that. As long as someone is
22 going to get a degree they can commit
23 securities fraud. So that is the direct
24 impact.

25 Q. Did that happen in any

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2 instance?

3 MS. KILSON: Objection.

4 A. It could have. I don't know.

5 Actually, there has been people that have

6 been convicted of that. I don't know if

7 it's related to Ayal or not.

8 Q. There have been people

9 convicted of what?

10 A. Some sort of, I'm sure, fraud.

11 Q. Which people? Who are you

12 talking about?

13 A. I'm sure there are some Stern

14 alums that have been convicted.

15 Q. Because of Ayal's guilty plea?

16 A. I'm not saying that, but there

17 is a possibility to make that connection.

18 I have not investigated that. I am saying

19 there was a belief from the committee that

20 his activity going unnoticed and undealt

21 with would send the wrong message to the

22 Stern community.

23 Q. Was the Stern community

24 informed of the disciplinary committee's

25 decision with respect to --